

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JULIE MICHELLE GEHRKE,

Plaintiff,

v.

Case No. 18-cv-1800-pp

NANCY BERRYHILL,

Defendant.

**ORDER REQUIRING PLAINTIFF TO FILE AN AMENDED MOTION FOR
LEAVE TO PROCEED WITHOUT PREPAYING THE FILING FEE**

On November 13, 2018, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

To decide whether to allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff has the ability to pay the filing fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

The plaintiff's affidavit does not provide enough facts for the court to determine whether she can pay the filing fee. The affidavit indicates that the plaintiff is not employed, that she is married, and that she has no dependents. Dkt. No. 3 at 1. The plaintiff lists her husband's monthly wages or salary as

\$3,700 per month; she lists expenses of \$1,388.97 (mortgage), \$334.88 (car payments), \$300 (credit card payments), and \$1,949.41 (other household expenses). Id. at 2. The plaintiff indicates that she and her husband own three vehicles (including a 2017 model valued at over \$15,000), a home with just over \$23,000 in equity, and \$396 in a checking/savings or similar account. Id. at 3. Under Section V, “Other Circumstances,” the plaintiff states, “[my] husband and I have outstanding medical bills that we owe and are not able to pay. They are from myself *and my (our) children*. Lots of them went to bill collectors because we don’t have the money to pay them.” Id. at 4 (emphasis added).

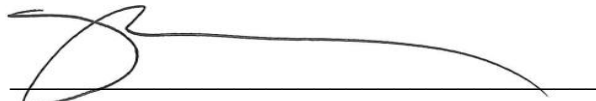
Without more information, the court cannot evaluate whether the plaintiff is able to pay the \$350 filing fee and \$50 administrative fee. Although the plaintiff’s affidavit indicates that she has no dependents, she says that medical bills for herself and her children are outstanding. Do the plaintiff and her husband have children that they are supporting? If her “other household expenses” of \$1,949.41 include expenses incurred raising children, that would be a different story than that amount being incurred by two adults. Are payments on outstanding medical bills part of the plaintiff’s “other household expenses”? What other expenses are included in that amount? The court is going to require the plaintiff to file a new “Non-Prisoner Request to Proceed in District Court Without Prepaying the Filing Fee” affidavit. Specifically, the plaintiff should indicate whether she and her husband have dependent

children living in their household. The plaintiff also must itemize more particularly the “other household expenses” in Section III.

The court **ORDERS** the plaintiff to file a new affidavit by the end of the day on **December 28, 2018**. If the plaintiff does not provide a new affidavit in time for the court to receive it by the end of the day on December 28, 2018, the court will deny her application to proceed without prepaying the filing fee, and will require her to pay the full \$400 filing fee by a date certain.

Dated in Milwaukee, Wisconsin this 3rd day of December, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge